

**MINUTES OF THE
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, November 17, 1999 - 2:15 p.m. - Room 416 State Capitol

Members Present:

Sen. Michael G. Waddoups, Chair
Rep. Blake D. Chard, Chair
Sen. Paula Julander
Rep. Trisha Beck
Rep. Duane Bourdeaux
Rep. DeMar "Bud" Bowman
Rep. Perry L. Buckner
Rep. David L. Hogue
Rep. Susan J. Koehn
Rep. Carl R. Saunders
Rep. Marlon O. Snow
Rep. Nora B. Stephens

Members Absent:

Sen. L. Alma "Al" Mansell

Staff Present:

Ms. Chyleen A. Arbon, Research Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Vanessa Thompson, Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Committee Business - Chair Waddoups called the meeting to order at 2:21 p.m.

MOTION: Rep. Saunders moved to approve the minutes of the October 20, 1999 meeting. The motion passed unanimously, with Rep. Bourdeaux absent for the vote.

2. Private Prison Update - Mr. Pete Haun, Executive Director, Department of Corrections, distributed a handout titled "Reduced Demand for Beds." He said that although there are a number of issues yet to be addressed by the department and Cornell Corporation, the two parties have neared an agreement to begin construction on the privatized prison.

Mr. Steve Erickson, Utah Citizens Education Project, said that the legislature should re-examine the decision to privatize, because there continue to be problems with private prisons in other states. He distributed a handout titled "Utah Citizens Education Project."

3. Sentencing of Convicted Felons Report - Mr. Pete Haun, Executive Director, Department of Corrections, and Sheriff Aaron Kennard, Salt Lake County, distributed a handout titled "Jail Programs: Utah Department of Corrections." Rep. Chard sponsored H.B. 118, "Sentencing of Convicted Felons," in the 1999 General Session which required this report. Mr. Haun indicated that through the cooperation of the Utah Sheriffs Association and the department, a core price of \$33.07 per inmate, per day, was established for housing Utah inmates in county jails. The department will be requesting \$7.1 million from the legislature for jail programs for fiscal year 2000-2001.

4. Crime Reduction Task Force Report - Sen. Robert Montgomery and Rep. John Swallow, Co-Chairs, Crime Reduction Task Force, distributed a handout titled "Crime Reduction Task Force Report" and discussed the various issues examined during the interim meetings of the task force. They stated that the majority of crimes committed in Utah are a result of drug use. The task force heard testimony that the drug court pilot program has been beneficial in Salt Lake County; recidivism rates have decreased as a result of offender completion of this program. The recommendations of the task force included implementing statewide drug courts and instituting a pilot project for parolees based on the drug court model.

5. Draft Legislation - "Public Safety Fee Process Revision" - Ms. Allred discussed the implications of the proposed legislation. The purpose of the bill is to facilitate the process of annually reviewing all fees collected by the Department of Public Safety through the appropriation process, by removing all references in the code to the dollar amount of individual fees, and referring the department to the appropriation committee process through Section 63-38-3.2 in order to establish or change any fee.

MOTION: Rep. Stephens moved that the committee adopt the proposed legislation titled "Public Safety Fee Process Revision" as a committee bill. The motion passed unanimously, with Rep. Buckner absent for the vote.

6. Draft Legislation - "Council on Sexual Victims and Offenders" - Ms. Allred explained that the bill extends the final reporting date of the Council on Sexual Victims and Offenders to the Judiciary Committee and the Law Enforcement and Criminal Justice Committee to the November interim meetings in 2000.

MOTION: Rep. Hogue moved that the committee adopt the proposed legislation titled "Council on Sexual Victims and Offenders" as a committee bill. The motion passed, with Rep. Stephens voting in opposition.

7. Performance Audit Report - Asset Forfeiture Procedures - Mr. James Behunin, Audit Supervisor, Mr. Wayne Welsh, Auditor General, and Mr. Tim Osterstock, Audit Supervisor, Office of the Legislative Auditor General, distributed copies of the "Report to the Utah Legislature Number 99-09 – A Performance Audit of Asset Forfeiture Procedures – November 1999." Mr. Behunin indicated that the charges of alleged abuse of the power to forfeit assets were unfounded. He cited a few isolated examples of poor control of evidence and inappropriate distribution of forfeited property in the past; however, current administrators have taken actions to correct these problems. The audit recommended procedures to ensure that assets were controlled and distributed according to statute.

Chair Waddoups suggested requiring new law enforcement officers to complete a training course for appropriate handling of evidence and forfeited property.

Mr. Terry Trease, West Jordan, said that it is unconstitutional to forfeit property without a conviction.

Mr. Don Gyman, Conservatives for Truth and Virtue, said that the audit inaccurately interpreted the Fifth Amendment.

8. Draft Legislation - "Forfeiture Relating to Sexual Offenses Against Children" - Rep. Buckner and Ms. Allred suggested a correction to page 3 line 69: delete "property" and insert "computer equipment." This proposed legislation allows the forfeiture of the computer equipment of a convicted offender who has used the computer to commit a sexual crime involving a child.

Rep. Buckner clarified that only a "knowing participant" can be subject to forfeiture.

Mr. Behunin indicated that there appears to be no inconsistency between the proposed legislation and the findings of the audit.

Detective Marnie Mitchell, Salt Lake County Sheriff's Office, explained the increasing frequency of this kind of crime and the need for this legislation.

MOTION: Rep. Buckner moved that the committee adopt the corrected draft legislation titled "Forfeiture Relating to Sexual Offenses Against Children" as a committee bill. The motion passed, with Sen. Waddoups and Rep. Hogue voting in opposition, and Rep. Koehn absent for the vote.

Mr. Steve Miller, Adult Probation and Parole, indicated that he is unable to monitor computer use by those on probation. He suggested that the electronic equipment used in the crime should be forfeited.

Ms. Sara Thompson, citizen, indicated her opposition to the proposed legislation because it allows for seizure of property of an owner even if the owner is not convicted of the crime. She thinks that the punishment does not fit the crime. She also indicated that owners of the computer should be compensated if computer equipment is forfeited.

Mr. Charles Bradford, citizen, asked for an explanation of what the bill does that is not already being done. Rep. Buckner explained that the bill allows for forfeiture of computer equipment used by convicted offenders.

Ms. Sue Ashdown, Vice President, Xmission, and Executive Director, Coalition of Utah Independent Internet Service Providers, indicated that even though she is in agreement with the recent changes made to the bill, she is still philosophically opposed to the idea of the bill.

Mr. Trease suggested destroying the computer altogether. Rep. Buckner agreed.

Ms. Marilyn Carrion, Prisoners Information Network, feels that the families of offenders would be punished if this legislation passes, because they would lose valuable information on the forfeited computer.

Mr. Joe Granducci, Weber County, expressed his feeling that forfeiture is not the answer to improving society.

9. Adjourn -

MOTION: Rep. Bowman moved to adjourn the meeting. The motion passed unanimously, with Rep. Koehn absent for the vote. Chair Waddoups adjourned the meeting at 4:36 p.m.